

REMARKS

In the final Office Action, the Examiner rejects claims 26-44 and 85 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter; rejects claim 85 under 35 U.S.C. § 102(a) as anticipated by ULRICH (U.S. Patent No. 6,895,438); and rejects claims 1-44 and 85 under 35 U.S.C. § 103(a) as unpatentable over JANG (U.S. Patent No. 6,980,526) in view of ULRICH. Applicant respectfully traverses these rejections.¹ Claims 1-44 and 85 are pending.

Claims 26-44 and 85 stand rejected under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. Applicant amended independent claims 26 and 85 in the Amendment, filed April 7, 2006, to indicate that the computer readable medium is a tangible computer readable medium. This amendment was made in accordance with the Examiner's suggestion for overcoming the rejection under 35 U.S.C. § 101. Yet, in the final Office Action, the Examiner continues to suggest that Applicant amend independent claims 26 and 85 in the manner in which those claims were amended in the Amendment, filed April 7, 2006. Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 26 and 85 under 35 U.S.C. § 101. Claims 27-44 depend from claim 26. Therefore, Applicant respectfully requests that the rejection of claims 27-44 under 35 U.S.C. § 101 be reconsidered and withdrawn for at least the reasons given above with respect to claim 26.

¹ As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such assertions/requirements in the future.

Claim 85 stands rejected under 35 U.S.C. § 102(a) as allegedly clearly anticipated by ULRICH. Applicant respectfully traverses this rejection.

A proper rejection under 35 U.S.C. § 102 requires that a single reference teach every aspect of the claimed invention either expressly or impliedly. Any feature not directly taught must be inherently present. In other words, the identical invention must be shown in as complete detail as contained in the claim. See M.P.E.P. § 2131. ULRICH does not disclose or suggest the combination of features recited in claim 85.

For example, independent claim 85 is directed to a tangible computer readable medium having computer executable instructions for performing a method. The method comprises generating at least one call event record in response to at least one event; and creating an XML call event file including the at least one call event record. ULRICH does not disclose or suggest this combination of features.

For example, ULRICH does not disclose or suggest creating an XML call event file including at least one call event record that is generated in response to at least one event. ULRICH merely recites that a proxy server is able to directly process communication records' XML metadata tags that identify the message and attachment types, key words, word count, duration, format, manner of encoding, or other attributes of interest without having to cull this information from different sources and media (col. 15, lines 58-63). ULRICH does not disclose or suggest creating an XML call event file that includes at least one call event record that is generated in response to at least one event.

The Examiner appears to rely on col. 3, line 18; col. 8, line 13; and col. 15, lines 39-67, of ULRICH for allegedly disclosing this feature (final Office Action, pp. 2-3, and

Office Action, dated January 10, 2006 (referred to hereinafter as "Office Action," pg. 5)).

Applicant respectfully disagrees with the Examiner's interpretation of ULRICH.

At col. 3, line 14-18, ULRICH discloses:

Traditionally, companies have had outgoing phone logs and may have monitored them to ensure that employees were only making authorized long-distance calls. Today, with digital phone identification, it is now possible to have records of incoming calls, too.

This section of ULRICH discloses that companies may track incoming calls to employees. This section of ULRICH in no way relates to creating an XML call event file including at least one call event record that is generated in response to at least one event, as required by claim 85.

At col. 8, lines 12-19, ULRICH discloses:

Communication record 35 shows another example of a communication record--in this instance, a phone call of personal nature lasting 1.6 minutes. No normalizing calculation is required as the message type is already in a time-based format while the time needed to receive and dispose of the communication consists of a relatively insignificant few seconds needed to pick up and set down a phone receiver.

This section of ULRICH discloses an example of a communication record 35. This section of ULRICH in no way relates to creating an XML call event file including at least one call event record that is generated in response to at least one event, as required by claim 85.

At col. 15, lines 39-67, ULRICH discloses:

Within a few years as converged Internet-protocol networks replace legacy systems, all forms of telecommunication--whether voice, data, text, images, video, and mixed media--will be measurable in terms of bytes (the stocks of information) and bandwidth (the flows of same). Ultimately, with the advent of personal-area networks (which are the wired-human-body equivalent of a corporate local-area network), time spent in face-to-

face communication may also be automatically quantifiable. Similarly, organizations are increasingly using and accepting metadata like eXtensible Markup Language (XML) to facilitate business transactions and communications. Standards are still emerging under various forums like the Internet Engineering Task Force for such metadata as XML for messaging, XML for wireless applications, and XML for synchronizing data on disparate platforms. Once adopted, XML for messaging will facilitate tracking of various forms of telecommunication without the need for keyword scanning or topic gisting, which can require a lot of computing overhead. The proxy server of the present invention will be able to directly process communication records' XML metadata tags that identify the message and attachment types, key words, word count, duration, format, manner of encoding, or other attributes of interest without having to cull this information from different sources and media. Encrypted and encoded files would contain this XML metadata as an external wrapper, thus obviating the need for the proxy server to open and review each message as it passes through the system.

This section of ULRICH discloses that a proxy server is able to directly process communication records' XML metadata tags that identify the message and attachment types, key words, word count, duration, format, manner of encoding, or other attributes of interest without having to cull this information from different sources and media (col. 15, lines 58-63). This section of ULRICH in no way relates to creating an XML call event file including at least one call event record that is generated in response to at least one event, as required by claim 85.

Applicant respectfully requests that the Examiner either explain how any of the above sections of ULRICH discloses or suggests creating an XML call event file including at least one call event record that is generated in response to at least one event, as required by claim 85, or withdraw the rejection.

For at least the foregoing reasons, Applicant submits that claim 85 is not anticipated by ULRICH.

Claims 1-44 and 85 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over JANG et al. in view of ULRICH. Applicant respectfully traverses this rejection.

Independent claim 1 is directed to a method including creating an XML call event file including a server information section, at least one SIP message section, and at least one call event section; generating at least one call event record in response to at least one event; and storing the at least one call event record in either the at least one SIP message section, or the at least one call event section. JANG et al. and ULRICH, whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, JANG et al. and ULRICH do not disclose or suggest creating an XML call event file including a server information section, at least one SIP message section, and at least one call event section. The Examiner appears to admit that JANG et al. does not disclose this feature and relies on ULRICH for allegedly disclosing the above feature of claim 1 (Office Action, pg. 4). Applicant respectfully disagrees with the Examiner's interpretation of ULRICH.

At the outset, Applicant notes that ULRICH does not mention the session initiation protocol (SIP). Therefore, ULRICH cannot disclose or suggest creating an XML call event file that includes at least one SIP message section, as required by claim 1.

Nevertheless, as set forth above, ULRICH discloses a proxy server that is able to directly process communication records' XML metadata tags that identify the message

and attachment types, key words, word count, duration, format, manner of encoding, or other attributes of interest without having to cull this information from different sources and media (col. 15, lines 58-63). However, ULRICH in no way discloses or suggests creating an XML call event file including a server information section, at least one SIP message section, and at least one call event section, as required by claim 1.

The Examiner does not address the above arguments in the final Office Action. If this rejection is maintained, Applicant again requests that the Examiner specifically point out where in ULRICH this feature is disclosed.

JANG et al. and ULRICH do not further disclose or suggest storing the at least one call event record in either the at least one SIP message section, or the at least one call event section, as also required by claim 1. The Examiner relies on col. 11, lines 4-8, and col. 5, line 30, of JANG et al. for allegedly disclosing this feature (Office Action, pg. 4). Applicant respectfully disagrees with the Examiner's interpretation of JANG et al.

At col. 11, lines 4-8, JANG et al. discloses:

Once the call connection request is processed and videoconferencing is occurring, at 518, the method includes monitoring the established videoconferencing call. Switch 12 may monitor or record call information related to videoconferencing such as quality, duration of call, etc.

This section of JANG et al. discloses that a switch 12 may monitor or record call information relating to a videoconference. This section of JANG et al. in no way discloses or suggests storing at least one call event record in either the at least one SIP message section, or the at least one call event section of an XML call event file, as required by claim 1. In fact, JANG et al. does not even mention XML files.

At col. 5, lines 30-32, JANG et al. discloses:

Enterprise video gateway 36 typically includes an emulation module 40 which emulates H.323/SIP call control and firewall functionality and an encryption module 44.

This section of JANG et al. discloses emulating H.323/SIP call control and firewall functionality. This section of JANG et al. in no way discloses or suggests storing at least one call event record in either the at least one SIP message section, or the at least one call event section of an XML call event file, as required by claim 1. In fact, as set forth above, JANG et al. does not even mention XML files.

The Examiner does not address the above arguments in the final Office Action. Applicant respectfully requests that the Examiner explain how the above sections of JANG et al. can reasonably be construed to disclose storing at least one call event record in either the at least one SIP message section, or the at least one call event section of an XML call event file, as required by claim 1, or withdraw the rejection.

Further in the final Office Action, the Examiner alleges:

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually (last three lines of page 16 to the first paragraph of page 17 and the fourth last line of page 17 to line 10 of page 18) where the rejections are based on combinations of references

and points to In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981) and In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986) to support this allegation. Applicant disagrees with the Examiner's allegation.

Applicant notes that Applicant's arguments in the Amendment filed April 7, 2006, are directed to the specific references and to the specific sections of those references relied on by the Examiner as allegedly disclosing the features recited in Applicant's claim

1. The Examiner's allegation regarding these arguments lacks merit.

For at least the foregoing reasons, Applicant submits that claim 1 is patentable over JANG et al. and ULRICH, whether taken alone or in any reasonable combination.

Claims 2-25 depend from claim 1. Therefore, these claims are patentable over JANG et al. and ULRICH, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1.² Moreover, these claims recite additional features not disclosed or suggested by JANG et al. and ULRICH.

With respect to claims 2-25, the Examiner alleges "labels of networks, systems, events and servers are not patentable subject matter." (Office Action, pg. 5). Applicant respectfully disagrees with the Examiner's interpretation of claims 2-25.

Claims 2-25 do not merely recite labels, as the Examiner alleges. For example, claims 10-18 recite different events that cause at least one call event record to be generated. The Examiner does not address these features in either the final Office Action or the Office Action. Therefore, a *prima facie* case of obviousness has not been established with respect to these claims.

If the Examiner maintains the position that claims 2-25 do not recite patentable subject matter, Applicant again requests that the Examiner point to some authority that supports this position.

For at least these additional reasons, Applicant respectfully submits that claims 2-25 are patentable over JANG et al. and ULRICH.

² As Applicant's remarks with respect to the base independent claims are sufficient to overcome the Examiner's rejections of all claims dependent therefrom, Applicant's silence as to the Examiner's assertions with respect to dependent claims is not a concession by Applicant to the Examiner's assertions as to these claims, and Applicant reserves the right to analyze and dispute such assertions in the future.

Independent claims 26 and 85 recite features similar to (yet, possibly of different scope than) features recited above with respect to claim 1. Therefore, Applicant submits that claims 26 and 85 are patentable over JANG et al. and ULRICH, whether taken alone or in any reasonable combination, for at least reasons similar to reasons given above with respect to claim 1.

Claims 27-44 depend from claim 26. Therefore, these claims are patentable over JANG et al. and ULRICH, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 26. Moreover, these claims recite additional features not disclosed or suggested by JANG et al. and ULRICH.

With respect to claims 27-44, the Examiner alleges "labels of networks, systems, events and servers are not patentable subject matter." (Office Action, pg. 5). Applicant respectfully disagrees with the Examiner's interpretation of claims 27-44.

Claims 27-44 do not merely recite labels, as the Examiner alleges. For example, claims 29-37 recite different events that cause at least one call event record to be created. The Examiner does not address these features in either the final Office Action or the Office Action. Therefore, a *prima facie* case of obviousness has not been established with respect to these claims.

If the Examiner maintains the position that claims 27-44 do not recite patentable subject matter, Applicant respectfully requests that the Examiner point to some authority that supports this position.

For at least these additional reasons, Applicant respectfully submits that claims 27-44 are patentable over JANG et al. and ULRICH.

In view of the foregoing remarks, Applicant respectfully requests the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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Date: September 18, 2006

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